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Amendments to the  
LOCAL RULES for the Ninth Circuit Court of Appeals  
***Effective, January 1, 2003***

RULE	TITLE	New or Revised	PURPOSE OF AMENDMENT
Circuit Rule 9-1.1	Release Before Judgement of Conviction	Revised	Purpose is to clarify who has to do what when
Circuit Rule 9-1.2	Release Pending Appeal	Revised	Same as above.
Circuit Rule 27-11	Motions; Effect on Schedule	Revised	Brings the Rule into conformance with court practice.
Circuit Rule 36-3	Citation of Unpublished Dispositions or Orders	Revised	Extends the period of permitting citation of unpublished dispositions for another <b>30 months</b> .

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CIRCUIT RULE 9-1

RELEASE IN CRIMINAL CASES

9-1.1 Release Before Judgment of Conviction

(a) Every notice of appeal from a release or detention order entered before or at the time of a judgment of conviction shall bear the caption "FRAP 9(a) Appeal." Immediately upon filing, the district court shall forward the notice of appeal to the Court of Appeals Clerk's Office. Upon filing the notice of appeal, counsel shall contact the Court of Appeals' motions unit to notify the court that such an appeal has been filed. Unless otherwise directed by the Court, appellant shall file a memorandum of law and facts in support of the appeal within 14 days of filing the notice of appeal. Appellant's memorandum shall be accompanied by a

copy of the district court's release or detention order, and, if the appellant questions the factual basis of the order, a transcript of the district court's bail proceedings. If unable to obtain a transcript of the bail proceedings, the appellant shall state in an affidavit the reasons why the transcript has not been obtained.

*(Rev. 01/2003)*

(b) Unless otherwise directed by the court, appellee shall file a response to appellant's memorandum within 10 calendar days of service. *(Rev. 01/2003)*

(c) Unless otherwise directed by the court, appellant may file a reply within seven (7) calendar days of service of the response. The appeal shall be decided promptly upon the completion of briefing. *(Rev. 01/2003)*

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### 9-1.2 Release Pending Appeal

(a) A motion for bail pending appeal or for revocation of bail pending appeal, made in this court, shall be accompanied by a copy of the district court's bail order, and, if the movant questions the factual basis of the order, a transcript of the proceedings had on the motion for bail made in the district court. If unable to obtain a transcript of the bail proceedings, the movant shall state in an affidavit the reason why the transcript has not been obtained.

(b) A movant for bail pending appeal shall also attach to the motion a certificate of the court reporter containing the name, address, and telephone number of the reporter who will prepare the transcript on appeal and the reporter's verification that the transcript has been ordered and that satisfactory arrangements have been made to pay for it, together with the estimated date of completion of the transcript. A motion for bail which does not comply with part (b) of this rule will be prima facie evidence that the appeal is taken for the purpose of delay within the meaning of 18 U.S.C. § 3143(b).

(c) Unless otherwise directed by the court, the non-moving party shall file an opposition or statement of non-opposition to all motions for bail or revocation of bail pending appeal of a judgment of conviction within ten (10) calendar days of service of the motion. *(Rev. 01/01/2003)*

(d) Unless otherwise directed by the court, the movant may file an optional reply within seven (7) calendar days of service of the response. *(Rev. 01/01/2003)*

(e) If the appellant is on bail at the time the motion is filed in this court,

that bail will remain in effect until the court rules on the motion. *(Rev. 01/2001 - changed from (d) to (e).)*

Cross Reference: Circuit Rule 27-1, 27-3, Motions Practice.

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## CIRCUIT RULE 27-11

### MOTIONS; EFFECT ON SCHEDULE

(a) Motions requesting the types of relief noted below shall stay the schedule for record preparation and briefing pending the court's disposition of the motion:

*(Rev. 01-01-2003)*

- (1) dismissal; *(Rev. 01-01-2003)*
- (2) transfer to another tribunal; *(Rev. 01-01-2003)*
- (3) full remand;
- (4) in forma pauperis status in this court; *(Rev. 01-01-2003)*
- (5) production of transcripts at government expense; and  
*(Rev. 01-01-2003)*
- (6) appointment or withdrawal of counsel. *(Rev. 01-01-2003)*

(b) The schedule for record preparation and briefing shall be reset as necessary upon the court's disposition of the motion. Motions for reconsideration are disfavored and will not stay the schedule unless otherwise ordered by the court. *(Rev. 01-01-2003)*

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## CIRCUIT RULE 36-3

### CITATION OF UNPUBLISHED DISPOSITIONS OR ORDERS

- (a) Not Precedent: Unpublished dispositions and orders of this Court are not binding precedent, except when relevant under the doctrine of law of the case, res judicata, and collateral estoppel.
- (b) Citation: Unpublished dispositions and order of this Court may not be cited to or by the courts of this circuit, except in the following circumstances.
  - (i) They may be cited to this Court or to or by any other court in this circuit when relevant under the doctrine of law of the case, res

- judicata, or collateral estoppel.
- (ii) They may be cited to this Court or by any other courts in this circuit for factual purposes, such as to show double jeopardy, sanctionable conduct, notice, entitlement to attorneys' fees, or the existence of a related case.
  - (iii) They may be cited to this Court in a request to publish a disposition or order made pursuant to Circuit Rule 36-4, or in a petition for panel rehearing or rehearing en banc, in order to demonstrate the existence of a conflict among opinions, dispositions, or orders.
- (c) Attach Copy: A copy of any cited unpublished disposition or order must be attached to the document in which it is cited, as an appendix. (*New Rule 7/1/2000*)

*CIRCUIT ADVISORY COMMITTEE  
NOTE TO RULE 36-3*

*Please note that Circuit Rule 36-3 has been adopted for another limited 30-month period, beginning January 1, 2003 and ending July 1, 2005. (Rev. 01-01-2003)*